

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 494 of 1998

with

FIRST APPEAL No 496 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and  
MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MAHAVIR CONSTRUCTION COMPANY

Versus

RAMSINGH HATHISINGH RAJPUT

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Appearance:

1. First Appeal No. 494 of 1998  
MR YN RAVANI for Petitioners
2. First Appeal No 496 of 1998  
MR YN RAVANI for Petitioners

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CORAM : MR.JUSTICE J.N.BHATT and  
MR.JUSTICE A.M.KAPADIA

Date of decision: 19/03/98

ORAL JUDGEMENT

Both these appeals arise out of a common judgement and one common accident and raise identical question. Therefore they are being disposed of by this common judgement.

2. The accident in question occurred on 21.11.87 when it was proceeding on Limdi Sayla National Highway at about 9:30 morning. At that time the driver of the tractor one Dhirubhai lost control over the vehicle as a result of which the tractor alongwith trawler went of the road and got turtle injuring the respondents in both the appeals who are the original claimants. Injured Ramsingh Rajput and injured Lakhabhai Maganbhai claimed compensation by filing motor accident claims MACP.No.102 & 103 of 1988 respectively before the MACP Auxillary at Surendranagar.

3. The Tribunal upon the assessment and examination of the evidence on record partly allowed the claim petitions. The claim petition no.102/88 filed by injured Ramsingh was allowed and amount of Rs.44,300/- and MACP No.103 of 1988 filed by injured Lakhabhai Maganbhai was allowed partly and claimant came to be awarded an amount of Rs.1,32,700/- for personal injuries with interest and cost by common judgement which is challenged before us in this group of two appeals under Section 173 of the Motor Vehicles Act, 1988.

4. After having considered the facts and circumstances and the evidence the copies thereof were supplied during the course of submissions by Mr.Ravani, we are convinced that the assessment made by the Tribunal upon the critical analysis of the evidence is quite justified requiring no interference.

5. The Tribunal has awarded an amount of Rs.1,32,700/- to injured Lakhabhai considering the following aspects :

1. Injured Lakhabhai is a Labourer aged about 35 years.
2. He had sustained serious injuries on his hands and there were two fractures.
3. The claimant was undergoing treatment for a long spell in different hospitals.
4. He was operate four times during the course of treatment as per the evidence of Orthopaedic Surgeon Dr.J.G.Sanghvi at Exh.34.

6. The Tribunal assessed income of the injured only at Rs.900/-. After having given our anxious thought to the aforesaid facts and evidence, we have no hesitation in finding that the amounts of compensation awarded by the Tribunal to the tune of Rs.1,32,700/- under both the heads in view of the nature and number of injuries, the extent of disablement and the avocation of the claimant who is a labourer. Therefore the contention that the amount of award is excessive is not sustainable.

7. In so far as the case of injured Ramsingh is concerned it may be noted that the Tribunal has considered various relevant aspects including the extent of disablement and the resultant effect on the earning prospects and chances being a labourer. The amount of award to the tune of Rs.44,300/- awarded by the Tribunal for pecuniary loss and personal loss in the facts and circumstances cannot be said to be excessive.

8. It is a settled proposition of law that when Appellate court broadly agrees that the ultimate conclusion recorded by the Trial Court for the time being as the case may be it may not be necessary to reiterate the whole grounds on which the impugned judgement has been pounded upon. It is a settled proposition of law that Section 56, and 176 of the Motor Vehicles Act, the Appellate Court has not spelt out that the amount awarded is too high or too low which is not the case before us of these 2 appeals. Therefore both the appeals are required to be dismissed at their very threshold. Hence both the appeals are dismissed. No order on Civil application.

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